IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
WRIT PETITION NO. 783 (MS) OF 2006

Arjun Kumar (minor),
S/o Shamsher Singh,
Through his natural guardian Shamsher Singh,
S/o late Shri Mahendir Singh,
R/o Village-Aurangabad,
Tehsil & District-Haridwar. .....Petitioner.

Versus

State of Uttaranchal, through Uttaranchal Shiksha Evam Pariksha Parishad Ram Nagar, District- Nainital, through its Secretary.

.....Respondents.

Dated: 23.06.2006

Hon'ble Rajesh Tandon, J.

Heard Sri M.S. Tyagi, Advocate for the petitioner and Sri Sushil Vashistha, Advocate for the respondent.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondent to produce the copies/record of both papers of Mathematics and Drawing bearing Roll No. 0004341 of regular High School Examination, 2006 conducted by the respondent and may be pleased to revaluate the copies/record of the petitioner in the presence of petitioner and his guardian and the marks may be awarded to the petitioner according to the performance done by the petitioner in the answer sheet.

Briefly stated, the petitioner appeared in the High School Examination, 2006 as a regular candidate from R.I.C. Aurangabad, Anneki, Haridwar with Roll No. 004341.

According to the case of the petitioner, he appeared in all the papers and answered with full satisfaction.

When the result was declared in June, 2006, it came to her notice that she has got lesser marks (48%) than that she was hoping. He has got only 24 marks out of 100 in the mathematics, due to which he has been declared failed.

Petitioner has submitted that she has submitted he is very good in making drawings, but he has got only 65 marks out of 100.

Petitioner has submitted that he has submitted scrutiny form and is also ready to deposit requisite fee.

So far as the evaluation is concerned, there is no provision for evaluation for evaluating the marks and as such no relief can be granted to the petitioner.

So far as the scrutiny is concerned, the petitioner has submitted that let the scrutiny be made of answer books of mathematics and drawing subject.

Sri V.K. Bisht, Sr. Advocate, has submitted that let the petitioner apply for scrutiny and the same shall be done by the Secretary Uttaranchal Shiksha Evam Pariksha/respondent no. 2.

In ***Vaibav Pandey v. Board of High School and Intermediate Education (1998)2 U.P.L.B.E.C. 1501,*** it has been held as under:-

> *"2. The past record of the petitioner indicates that he is an exceptionally brilliant student. In High School examination, the petitioner indicates that he is an exceptionally brilliant student. In High School examination, the petitioner has been awarded 19 marks*

out of 32 in Hindi 3rd papers. The petitioner has been awarded much higher marks in other subjects. The apprehension of the petitioner is that his answer book of Hindi IIIrd paper has not been correctly examined.

3. This writ petition is finally disposed of with the direction that respondent No.2 Apar Sachiv, Madhyamik Shiksha Parishad shall himself check the answer book of the petitioner in Hindi IIIrd paper of High School Examination, 1998 within a period of one month from the date a certified copy of this order is produced before him. On the date on which the answer book of the petitioner is being looked or examined by respondent No.2, the petitioner's guardian may also remain present. If any discrepancy is found in the answer book, it shall be corrected. The roll number which had been allotted to the petitioner is 1064476.

The aforesaid judgment has also been followed in Trishma Singh vs. U.P. Intermediate Education Board Allahabad, 2001 U.P. Local Bodies Cases 2071. Paragraph-7 of the judgment is important which is quoted below:-

"Learned counsel, for the petitioner has placed reliance on the case of Vaibhav Pandey v. Board of High School & Intermediate Education (1988) 2 UPLBEC 1501, in which this Court held as under:

> *This writ petition is finally disposed of with the direction that respondent No.2 Apar Sachiv, Madhyamik Shiksha Parishad shall himself check the answer book of the petitioner in Hindi IIIrd paper of High School Examination, 1998 within a period of one month from the date a certified copy of this order is produced before him. On the date on which the answer book of the petitioner is being looked or examined by respondent No.2, the petitioner's guardian may also remain present. If any discrepancy is found in the*

answer book, it shall be corrected. The roll number which had been allotted to the petitioner is 1064476."

It has further been held by the Allahabad High Court in the case ***Mobeen Ahmad Ansari vs. State of U.P. and others (1999) 1 UPLBEC 603*** as under:

"It is a matter of great concern that in the recent years there is consideration influx of such writ petitions in this Court has increased. Earlier the Board of High School and Intermediate Education had inspired so much confidence that seldom writ-petition were filed. Filing of writ petition on such a large scale before this Court indicate that there is considerable dissatisfaction among the students and their parent which requires introspection by the Board authorities as well. Although this Court seldom interfere in the revaluation of the marks, but with a view to have greater accountability and transparency there is a need for framing some certain rules to rectify the error, mistakes or defection calculation of the marks."

Thus, the respondent is directed to get the scrutiny of the answer book of mathematics and drawing subjects within a period of six weeks from the date of production of the certified copy of this order after taking the requisite scrutiny fee in accordance with the aforesaid judgments of the Allahabad High Court, where it has been held that there should be transparency of the marks and the petitioner may not be deprived from his legitimate claim.

Respondent is directed to get the scrutiny done after the petitioner applies for the same.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

23.06.2006
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